

### **REMARKS**

Favorable reconsideration of the present application is requested. Claims 31-33 have been added. Support for new claims 31 – 33 may be found, for example at page 7 of Applicant's Specification.

Applicant appreciates the Examiner's time in conducting an interview with Applicant's Representative on January 6, 2010. During the interview, Applicant and the Examiner primarily discussed proposals for amending claim 1, which were provided to the Examiner prior to the interview. Unfortunately, no agreement was reached regarding the allowability of these proposed claims.

Also during the interview, Applicant proposed amending claim 1 as shown herein. Although the Examiner would not give Applicant a definitive answer as to whether this amendment would be sufficient to put the application in condition for allowance, the Examiner did appear to view this amended claim 1 more favorably than those proposed prior to the interview.

At the conclusion of the interview, the Examiner indicated that the amendments made herein would raise new issues, and thus, require a Request for Continued Examination (RCE) to be entered and considered. To expedite prosecution, Applicant has filed this amendment along with an RCE.

**Accordingly, any rejection after this RCE should be non-final.**

No other pertinent matters were discussed during the interview.

### **BRIEF DISCUSSION OF AN EXAMPLE EMBODIMENT**

Figure 4 shows an example of an inventive workflow management system with continuous states for a process including a plurality of activities.

Referring to Figure 4, the interference machine 5 is a system for processing process definitions, which controls a workflow. The interference machine 5 sends continuous instructions  $A_{X1}$ ,  $A_{X2}$  and  $A_{X3}$  in parallel to the activities 1 to 3. In response, the activities 1 to 3 report the their respective states  $Z_{X1}$ ,  $Z_{X2}$  and  $Z_{X3}$  to the interference machine 5, and subsequent activities are ascertained and initiated based on the states  $Z_{X1}$ ,  $Z_{X2}$  and  $Z_{X3}$ .

Referring to Figure 5, an apparatus 6 determines and stipulates the process definitions, with  $A_n$  representing the continuous instruction to the activity n and  $Z_n$  representing the continuous state of the activity n. The apparatus 6 contains the instructions for the individual activities in a form of function equations, and given by the following examples for the instruction volumes  $A_{Xn}$  of the individual activities 1 to n:

$$A_{X1} = F_{X1}(Z_{X1}, Z_{X2}, \dots, Z_{Xn})$$

$$A_{X2} = F_{X2}(Z_{X1}, Z_{X2}, \dots, Z_{Xn})$$

.....

$$A_{Xn} = F_{Xn}(Z_{X1}, Z_{X2}, \dots, Z_{Xn})$$

These equations for the activation function, which are stipulated once but can be altered at any time, are supplied as process definitions to the interference mechanism 7 of the interference machine 5. This interference

mechanism 7 is in contact with a process instance manager 8, which delivers the instruction volume  $A_{xn}$  to the activity n of the activity stages 9. This instruction volume  $A_{xn}$  is supplied to a control stage 10, which is supplied with an activation threshold AS by an evaluation stage 11 for the process status. The control stage 10 is connected to the functional stage 12 of the activity n of the activity stages 9, which carries out the instructions of the activity n. The functional stage 12 reports the state  $Z_{xn}$  of the activity n to the process instance manager 8, which then reascertains the instruction volume  $A_{xn}$  so that this instruction volume is continuously matched to the respective circumstances and to the respective status or process progress.

#### **PREVIOUS REJECTION UNDER 35 U.S.C. §101**

Because there is no §101 rejection set forth in the current Office Action, Applicant believes that this rejection has been withdrawn.

#### **PRIOR ART REJECTION**

##### **Rejection under 35 U.S.C. §103**

Claims 1-26, 29 and 30 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,029,144 ("Barrett") in view of U.S. Patent Application Publication No. 2002/0138301 ("Karras"). This rejection is respectfully traversed.

As amended, claim 1 requires "*a second apparatus adapted to iteratively generate instruction volumes for controlling activity stages according to said fuzzy process definitions in said clinical workflow for the purpose of processing the process definitions;*" wherein "*the second apparatus iteratively generates instruction volumes based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity.*" This feature is not disclosed or fairly suggested by Barrett and/or Karras, taken singly or in combination. Therefore, the resultant combination (assuming *arguendo* such a combination could be made, which Applicant does not admit) fails to render claim 1 obvious.

At page 3, the Final Office Action relies upon the auditor system of Barrett to disclose the "second apparatus" of claim 1. Applicant disagrees.

As previously pointed out, Barrett discloses a system for testing selected expense entries in an audit queue for compliance with established policies and rules before reimbursement payment is made. When an expense entry fails a rule, the entry is flagged and sent to the auditor system (256 in FIG. 2) for manual audit and verification.

The auditor system 256 works with the policy checker 208 to verify significant changes to expense entries that result from the policy checking. The auditor system 256 receives only expense entries that have failed rules and the changes in the expense entries recommended by policy checker 208 from audit output 404. The auditor system 256 routes this information to human

auditors who can accept, reject or modify the changes suggested by policy checker 208.

Barrett does not disclose or suggest that the auditor system 256 *"iteratively [generates] instruction volumes... based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity"* as now required by claim 1. Indeed, Barrett fails to disclose or suggest any *continuously matching of activities to circumstances and respective statuses or process progress of the activity.*

Barrett is completely silent with regard to any generation of instruction volumes to control activity stages, let alone *iteratively* generating instruction volumes to control activity stages as now required by claim 1. Therefore, the auditor system of Barrett does not constitute the "second apparatus" of claim 1.

Further, at page 3 the Final Office Action states:

...The examiner has found that in not further defining the applicant's claimed "control [of] activity stages" in the claimed invention, that the "control [of] activity stages" reads on the management of workflow by the auditor workflow system as taught by Barrett.

By way of this response, Applicant has made an effort to further define the control of activity stages in claim 1. Specifically, Applicant has amended claim 1 to clarify that the second apparatus be adapted to *"iteratively generate instruction volumes for controlling activity stages,"* wherein *"the second*

*apparatus iteratively generates instruction volumes based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity."*

Moreover, claim 1 requires that the second apparatus iteratively generate the instruction volumes "*based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity.*" This manner in which instruction volumes are generated is not disclosed or suggested by Barrett.

Further still, at page 3, the Final Office Action states:

Furthermore, based on the applicant not teaching what the "control" is based on the Examiner asserts that the "control" can be based on input instructions from a human operator and performed by the auditor system as taught by Barrett...

Applicant continues to disagree.

As discussed above, claim 1 now requires, *inter alia*, that the second apparatus be adapted to "*iteratively generate instruction volumes for controlling activity stages,*" wherein "*the second apparatus iteratively generates instruction volumes based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity.*" Barrett neither discloses nor suggests any *iterative generation* of instruction volumes, let alone, iteratively generating instruction volumes "*based on the reported state of the activity so that the instruction volumes are continuously matched to circumstances and respective statuses or process progress of the activity.*"

Moving forward, Karras discloses the use of medical data in a workflow management system. But, by even cursory review one can appreciate that Karras suffers from at least the same deficiencies as Barrett with respect to claim 1. Therefore, even in combination (assuming *arguendo* such a combination could be made, which Applicant does not admit), Barrett and Karras fail to render claim 1 obvious.

For at least the foregoing reasons claim 1 is patentable over Barrett in view of Karras. Claims 10 and 24 are patentable over Barrett in view of Karras for at least reasons somewhat similar to those set forth above. Claims 2-9, 11-23 and 25 are patentable over Barrett in view of Karras at least by virtue of their dependency.

#### **NEW CLAIMS**

Applicant has added new claims 31 - 33, which are also believed to be patentable over the cited art. Allowance of new claims 31 - 33 is requested.

### **CONCLUSION**

In view of the foregoing remarks, favorable reconsideration and allowance of the pending claims is requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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